

U.S. Patent Appln. Ser. No. 09/921,060
Amendment and Response to Office Action dated July 3, 2006
Attorney Docket No. 99997.023404
December 4, 2006

REMARKS

Claims 1-23 are pending in the application. Claims 1, 13, 16, 18 and 23 have been amended. No new matter has been added by way of these amendments.

Claims 13 and 18 have been rejected under 35 U.S.C. § 112, second paragraph as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regards as the invention. *See* Office Action at ¶ 2. Claims 1-6, 8-11 and 14-23 have been rejected under 35 U.S.C. § 102(b) as allegedly anticipated by USPN 6,061,660 to Eggleston *et. al.* ("Eggleston"). *See* Office Action at ¶ 5. Claims 7, 12 and 13 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Eggleston. *See* Office Action at ¶ 9. Applicant responds as follows.

I. Information Disclosure Statements.

Applicant thanks the Examiner for considering the references that are listed on the Information Disclosure Statement that was filed on April 2, 2003. Applicant further brings to the Examiner's attention the Information Disclosure Statements that were filed on August 30, 2001 and October 21, 2001, and request that the references listed therein be considered and a copy of the Form PTO/SB/08A for each be returned with the Examiner's initials signifying that each listed reference was considered, per MPEP § 609.

II. Claim Rejections Under 35 U.S.C. § 112.

Claims 13 and 18 have been rejected under 35 U.S.C. § 112, second paragraph as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regards as the invention. *See* Office Action at ¶ 2.

Claim 13 was rejected because the limitation "the consumer is offered with the promotion" is allegedly indefinite. *Id.* Applicant has amended claim 13 to more particularly point out the claimed invention, and respectfully submits that the scope of claim 13, as amended, has not been altered by this amendment.

Claim 18 was rejected because the limitation "from at least one of the offering companies" is allegedly indefinite. *Id.* Applicant has amended claim 18 to more particularly point out the claimed invention in the manner suggested by the Examiner, and respectfully submits that the scope of claim 18, as amended, has not been altered by this amendment.

Applicant respectfully requests that these rejections be withdrawn based on the

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amendment of claims 13 and 18.

III. Claim Rejections Under 35 U.S.C. § 102.

Claims 1-6, 8-11 and 14-23 have been rejected under 35 U.S.C. § 102(b) as allegedly anticipated by USPN 6,061,660 to Eggleston. *See* Office Action at ¶ 5. Applicant respectfully submits that Eggleston does not disclose each and every limitation of independent claims 1, 16, 22 and 23, and therefore does not anticipate these claims or claims 2-6, 8-10, 14-15 or 17-21 that depend from these claims.

The Examiner asserts that, with respect to independent claims 1, 16, 22 and 23, Eggleston “teaches . . . method and system for managing purchasing incentives offered to consumers, the method comprising: receiving information on membership in loyalty programs of offering companies and organizations from a plurality of consumers (col. 12 lines 22-25 and col. 13 lines 20-21); receiving a query from at least one consumer for available purchasing incentives for a product or service (col. 12 lines 49-53 and col. 16 lines 30-32); processing the query and transmitting information relating to the availability of purchasing incentives in response to the query of the consumer (col. 12 lines 40-48).” *Id.* at ¶ 6. (emphasis in original).

A. The claimed inventions.

The inventions claimed in claims 1, 16, 22 and 23 relate to systems and methods for managing purchasing incentives. The inventions of claims 1, 16 and 23 share certain common functionality of receiving information on membership in loyalty programs from one or more consumers, then receiving an inquiry from consumers regarding the availability of a purchasing incentive for some good or service, processing the inquiry to see if such a purchasing incentive exists for the consumer based on the consumer's participation in the loyalty programs, and transmitting the result to the consumer, or structure to carry out such functionality. Claim 22 similarly recites methodology of receiving a purchasing incentive query from a consumer, and processing the query to determine if a purchasing incentive is available through the consumer's membership in at least one loyalty program.

B. The disclosure of Eggleston.

In contrast, Eggleston discloses a system and method whereby consumers register with a host system in order to participate in “incentive programs” where the consumers can “win” awards or prizes from sponsors, and then collect the awards or prizes from retailers. Eggleston

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discloses a "method and system for providing incentive programs over a computer network . . . in which a host may provide sponsoring companies with the capability to buy prepackaged or self-built incentive programs, offer such incentive programs to consumers, provide sponsoring companies and retailers with the capability to associate prizes with incentive programs, provide sponsoring companies, retailers and consumers with convenient fulfillment of prizes, and store and manipulate databases regarding all of the foregoing." Abstract. The invention of Eggleston is "an inventive program and award fulfillment system that provides easy access to consumers who have standard computer hardware and software, that permits sponsors to build or purchase incentive programs easily and efficiently, and that provides for convenient tracking of participation and convenient, automated award fulfillment." Col. 5 lines 38-44. The system of Eggleston "includes participation of a host who manages the system, one or more consumers who participate in incentive programs and in certain instances win awards, one or more sponsors who offer incentive programs through the host system, and one or more retailers who provide awards for the incentive programs and who fulfill delivery of awards to consumers." Col. 10 lines 3-9.

The "particular systems necessary for operation of the . . . invention [of Eggleston]" are depicted in Fig. 2. Col. 10 lines 43-44; Fig. 2. Fig. 2 depicts a system 10 including a host computer 18; a host gateway 19, a telecommunications interface 38; a consumer computer 12; a sponsor computer 14; a retailer inventory system 212; an EDI 126; and a member retailer computer 16. A "host" is defined in Eggleston as "any individual or company who wishes to provide a system for permitting sponsoring companies to offer incentive programs to consumers, employees, suppliers, partners and the like of the individual or company, and for creation of databases of retail, catalog, sponsor and other items that permit automated fulfillment of specific items listed in computer inventory systems of retailers at a retail location." Col. 8 lines 13-20.

The incentive programs of Eggleston "may be any type of program that results in a 'winning' activity." Col. 30 lines 13-14. Further, "[a]ny computer program that results in a successful outcome can serve as an incentive program, as long as the program is capable of generating a 'win' statement after successful completion of a predefined activity." Col. 30 lines 20-24. *See also* col. 35 lines 18-22 ("Other examples [of incentive programs] would include completion of surveys, successful answering of questionnaires, successful completion of

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computer games, and any other type of activity that results in a 'win' for the consumer. Any incentive program may be provided, as long as some algorithm for determining a winner is available.") Thus, the "incentive programs" of the system and method of Eggleston are programs that can be "won" by the consumer in order to receive prizes or awards.

The system and method of Eggleston function as follows: Fig. 8 shows the flow chart of the consumer's participation in the system and method of Eggleston. A consumer locates the consumer site of the host computer and registers to become a member of the host incentive program system. Col. 12 lines 22-28. The consumer enters various information and is assigned an identification number and a password. *Id.* at lines 28-30. Information may include name, age, address, zip code, email address and phone number. Col. 13 lines 10-13; col. 43 lines 6-9; Fig. 17. The consumer can "participate in one or more incentive programs." Col. 13 lines 43-45. Incentive programs could include scratch-and-win games; sweepstakes; treasure hunt games; or computer games. Col. 13 lines 45-47. Incentive programs available for participation by the consumer are provided by the host of the system, or may be "third party incentive programs that have been identified by the host for listing on a directory." Col. 12 lines 45-48. When the consumer wins an incentive program, "a 'win' message is sent . . . by the application program for the incentive program," and he/she is informed of the "appropriate prize." Col. 13 lines 51-54; col. 40 lines 36-37. The databases of the host system are updated to reflect that the consumer has won a prize. Col. 13 lines 54-56; col. 40 lines 38-46. The prize could be "retail merchandise . . . loyalty points, discounts, coupons and the like." Col. 13 lines 56-58. The "award database" ("a collection of reward and prizes that are a part of the incentive program of the present invention"; col. 40 lines 60-62) is then queried "to determine the closest geographic location of the retailer to the consumer's address from the consumer database." Col. 40 lines 46-49. The consumer is sent a message "indicating the prize won and the location of the retail store at which the consumer can pick up the prize by displaying [his/her electronic ID card 11]." Col. 40 lines 48-53. The "consumer may present the electronic card 11 to the cashier," which is used "to search a table of award units and winning consumer ID numbers." Col. 43 lines 37-43. If the consumer ID is matched with a winning ID, and the items scanned by the cashier match the award unit, "the product is authorized to be claimed according [to] the prize rules." Col. 43 lines 46-48. The consumer may be entitled to redemption or a discount. Col. 43 lines 48-43.

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Fig. 9 shows the flow chart of the sponsor's participation in the system and method of Eggleston. Sponsors of incentive programs must register with the host program as well. Col. 14 lines 6-13. Sponsors may either link to an existing incentive program site, or "may purchase an incentive program from the host." Col. 14 lines 26-28.

Fig. 13 shows the flow chart of the retailer's participation in the system and method of Eggleston. Retailers must also register with the host and then "list information regarding prizes the retailer wishes to include in a menu of various prizes offered by the retailer," which can include prizes "for selection by sponsors." Col. 15 lines 38-44.

Thus, Eggleston discloses a system and method where a consumer *earns* an award or prize by "winning" one or more "incentive programs" that are offered by one or more "sponsors" on the "host system" website.

C. Claims 1, 22 and 23.

a. Claim 1.

Claim 1 is a method claim for managing purchasing incentives offered to consumers through their memberships in loyalty programs of offering companies and organizations. Eggleston does not anticipate claim 1 because it does not disclose at least the limitations of claim 1 of "receiving information on membership in one or more loyalty programs of offering companies and organizations from a plurality of consumers and receiving a query from at least one consumer for available purchasing incentives for a product or service that are available due to the consumer's participation in the one or more of the loyalty programs."

First, Eggleston does *not* disclose that the host system *receives information on membership in one or more loyalty programs of offering companies and organizations from a plurality of consumers*. The only information that Eggleston discloses as received from consumers is registration information, which occurs *before* the consumer is permitted to participate in the incentive programs on the host system website. See col. 16 lines 19-24. There is no disclosure of the host system in Eggleston receiving any information from a consumer on that consumer's membership in one or more loyalty programs of offering companies and organizations.

The Examiner cites to col. 12 lines 22-25 and col. 13 lines 20-21 as allegedly disclosing this limitation of claim 1. These cited sections of Eggleston state the following in their entirety:

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A consumer operating on a consumer computer 12 uses the web browser 50 to locate the consumer site 192 of the host computer 18. Once the consumer has located the consumer site 192, the consumer is given various options.

* * *

An award or points sub-record 820 may record loyalty points or prizes won by the consumer.

These cited portions of Eggleston disclose first that a consumer can locate the host system website and is provided various options. The "various options" include becoming a member of the host incentive program system by registering, or linking to pages that describe the host incentive program system, that describe particular incentive programs or that provide other information related to the system. *See* col. 12 lines 26-28; lines 37-45. Next, these cited sections disclose that the host system includes an award or points sub-record that records loyalty points or "prizes" that are "won" by the consumer. There is no disclosure in these cited sections of Eggleston of receiving information on a consumer's membership in one or more loyalty programs of offering companies and organizations.

Further, Eggleston does *not* disclose receiving a query from at least one consumer for purchasing incentives for a product or service that are available due to the consumer's participation in the one or more of the loyalty programs, as claimed in claim 1 as amended. The Examiner cites to Eggleston at col. 12 lines 49-53 and col. 16 lines 30-32 as allegedly disclosing the limitation of original claim 1 of "receiving a query from at least one consumer for available purchasing incentives for a product or service." Office Action at ¶ 6. These cited sections of Eggleston disclose that the host system allows consumers to search for information or for particular incentive programs by topic or keyword. However, the consumer in Eggleston is eligible for a "prize" or "award" only if the consumer participates in an incentive program of a sponsor *and* accordingly "wins" the "prize" or "award." *See* col. 13 lines 51-54; col. 40 lines 36-37. There is *no* disclosure in Eggleston of purchasing incentives that are available to a consumer based on the consumer's "participation" in a loyalty program of an offering company or organization.

For at least these reasons, Eggleston does not disclose each and every limitation of claim 1 and therefore does not anticipate claim 1. Applicant respectfully requests that this rejection be withdrawn.

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b. Claim 22.

Claim 22 is a method claim for determining if purchasing incentives are available to a consumer through the consumer's membership in at least one loyalty program of at least one offering company or organization. Eggleston does not anticipate claim 22 because it does not disclose at least the limitations of "receiving a purchasing incentive query from a consumer and processing the purchasing incentive query to determine if at least one purchasing incentive is available through the consumer's membership in at least one loyalty program of at least one offering company or organization in response to the query."

First, the host system of Eggleston requires that consumers register, and then participate in incentive programs in order to "win" awards or prizes. See col. 13 lines 51-54; col. 40 lines 36-37. There is *no* disclosure in Eggleston of processing an incentive query to determine if at least one purchasing incentive is available to a consumer based on the consumer's *membership* in a loyalty program of an offering company or organization.

The Examiner cites to the same sections of Eggleston as allegedly disclosing these limitations as were cited to for claim 1. As noted for claim 1, these cited portions of Eggleston disclose that a consumer can locate the host system website and is provided various options. The "various options" include becoming a member of the host incentive program system by registering, or linking to pages that describe the host incentive program system, that describe particular incentive programs or that provide other information related to the system. See col. 12 lines 26-28; lines 37-45. Further, the cited sections disclose that the host system includes an award or points sub-record that records loyalty points or "prizes" that are "won" by the consumer. These cited sections of Eggleston do *not* disclose processing an incentive query to determine if at least one purchasing incentive is available to a consumer based on the consumer's *membership* in a loyalty program of an offering company or organization. Rather, the consumer in Eggleston is eligible for a "prize" or "award" only if the consumer participates in an incentive program of a sponsor *and* accordingly "wins" the "prize" or "award." See col. 13 lines 51-54; col. 40 lines 36-37. There is *no* disclosure in Eggleston of purchasing incentives that are available to a consumer based on the consumer's "membership" in a loyalty program of an offering company or organization.

Since Eggleston does not disclose these limitations of claim 22, Eggleston does not

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anticipate claim 22. Applicant respectfully requests that this rejection be withdrawn.

c. Claim 23.

Claim 23 is a method claim for determining if purchasing incentives are available to a consumer through the consumer's membership in at least one loyalty program of at least one offering company or organization. Eggleston does not anticipate claim 23 because it does not disclose at least the limitations of "receiving information from at least one consumer relating to at least one membership in at least one loyalty program of an offering company or organization; authenticating that the consumer is a member in at least one loyalty program; and communicating information relating to the availability of all purchasing incentives for at least one loyalty program in which the consumer is authenticated."

First, there is no disclosure of the host system in Eggleston receiving any information from a consumer on that consumer's membership in one or more loyalty programs of offering companies and organizations. Further, there is no disclosure in Eggleston of authenticating that the consumer is a member in the at least one loyalty program of which information on membership was received from the consumer. Finally, there is no disclosure in Eggleston of communicating information relating to the availability of all purchasing incentives for the at least one loyalty program in which the consumer is authenticated.

The Examiner cites to the same sections of Eggleston as allegedly disclosing these limitations as were cited to for claim 1. As noted previously, these cited portions of Eggleston disclose that a consumer can locate the host system website and is provided various options. The "various options" include becoming a member of the host incentive program system by registering, or linking to pages that describe the host incentive program system, that describe particular incentive programs or that provide other information related to the system. See col. 12 lines 26-28; lines 37-45. Further, the cited sections disclose that the host system includes an award or points sub-record that records loyalty points or "prizes" that are "won" by the consumer. These cited sections of Eggleston do *not* disclose receiving information on a consumer's membership in one or more loyalty programs of offering companies and organizations. Additionally, the host system of Eggleston allows consumers to search for information or for particular incentive programs by topic or keyword. However, the consumer in Eggleston is eligible for a "prize" or "award" only if the consumer participates in an incentive

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program of a sponsor and accordingly "wins" the "prize" or "award." *See* col. 13 lines 51-54; col. 40 lines 36-37. There is *no* disclosure in Eggleston of receiving information from a consumer on that consumer's membership in one or more loyalty programs of offering companies and organizations; or authenticating that the consumer is a member in the at least one loyalty program or communicating information relating to the availability of all purchasing incentives for the at least one loyalty program in which the consumer is authenticated.

Since Eggleston does not disclose these limitations of claim 23, Eggleston does not anticipate claim 23. Applicant respectfully requests that this rejection be withdrawn.

D. Claim 16.

Claim 16 is a system claim for processing purchasing incentive queries for purchasing incentives available to consumers through their membership in loyalty programs. Eggleston does not anticipate claim 16 because it does not disclose at least the limitations of "at least one interface unit capable of receiving information from a consumer relating to the consumer's membership in at least one offering company's or organization's loyalty program, a query from the consumer requesting available purchasing incentives for a product or service, wherein the at least one interface unit is capable of communicating to the consumer the availability of any purchasing incentives that are offered through at least one of the consumer's membership in at least one loyalty program."

First, Eggleston does *not* disclose at least one interface unit capable of receiving information from a consumer relating to the consumer's membership in at least one offering company's or organization's loyalty program. The only information that Eggleston discloses as received from consumers is registration information, which occurs *before* the consumer is permitted to participate in the incentive programs on the host system website. *See* col. 16 lines 19-24. There is no disclosure of the host system in Eggleston receiving any information from a consumer on that consumer's membership in one or more loyalty programs of offering companies and organizations.

Eggleston also does not disclose the limitations of receiving a query from the consumer requesting available purchasing incentives for a product or service, wherein the at least one interface unit is capable of communicating to the consumer the availability of any purchasing incentives that are offered through at least one of the consumer's membership in at least one

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loyalty program. The consumer in Eggleston is eligible for a "prize" or "award" only if the consumer participates in an incentive program of a sponsor *and* accordingly "wins" the "prize" or "award." See col. 13 lines 51-54; col. 40 lines 36-37. There is *no* disclosure in Eggleston of purchasing incentives that are available to a consumer based on the consumer's "participation" in a loyalty program of an offering company or organization.

The Examiner cites to the same sections of Eggleston as allegedly disclosing these limitations as were cited to for claim 1. As noted for claim 1, these cited portions of Eggleston disclose that a consumer can locate the host system website and is provided various options. The "various options" include becoming a member of the host incentive program system by registering, or linking to pages that describe the host incentive program system, that describe particular incentive programs or that provide other information related to the system. See col. 12 lines 26-28; lines 37-45. Further, the host system includes an award or points sub-record that records loyalty points or "prizes" that are "won" by the consumer. These cited sections of Eggleston do *not* disclose receiving information on a consumer's membership in one or more loyalty programs of offering companies and organizations. Additionally, the host system of Eggleston allows consumers to search for information or for particular incentive programs by topic or keyword. However, the consumer in Eggleston is eligible for a "prize" or "award" only if the consumer participates in an incentive program of a sponsor *and* accordingly "wins" the "prize" or "award." See col. 13 lines 51-54; col. 40 lines 36-37. There is *no* disclosure in Eggleston of purchasing incentives that are available to a consumer based on the consumer's "participation" in a loyalty program of an offering company or organization.

Since Eggleston does not disclose these limitations of claim 16, Eggleston does not anticipate claim 16. Applicant respectfully requests that this rejection be withdrawn.

E. Eggleston does not establish a *prima facie* case of anticipation because claims 1, 16, 22 and 23 do not have the same structure or perform the same steps as the Eggleston system and method.

Eggleston does not establish a *prima facie* case of anticipation because claims 1, 16, 22 and 23 do not have the same structure or perform the same steps as the Eggleston system and method. Eggleston states that the "particular systems necessary for operation of the . . . invention [of Eggleston]" are depicted in Fig. 2. Col. 10 lines 43-44; Fig. 2. Fig. 2 depicts a system 10 including a host computer 18; a host gateway 19, a telecommunications interface 38; a

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consumer computer 12; a sponsor computer 14; a retailer inventory system 212; an EDI 126; and a member retailer computer 16. Claims 1, 16, 22 and 23 do not include the structural limitations of a "host" as defined in Eggleston to be "any individual or company who wishes to provide a system for permitting sponsoring companies to offer incentive programs to consumers, employees, suppliers, partners and the like of the individual or company, and for creation of databases of retail, catalog, sponsor and other items that permit automated fulfillment of specific items listed in computer inventory systems of retailers at a retail location." Col. 8 lines 13-20.

Further, claims 1, 16, 22 and 23 do not include the structural limitations of "incentive programs" as those are defined in Eggleston to be "any type of program that results in a 'winning' activity." Col. 30 lines 13-14. For example, Eggleston discloses that "[a]ny computer program that results in a successful outcome can serve as an incentive program, as long as the program is capable of generating a 'win' statement after successful completion of a predefined activity." Col. 30 lines 20-24. *See also* col. 35 lines 18-22 ("Other examples [of incentive programs] would include completion of surveys, successful answering of questionnaires, successful completion of computer games, and any other type of activity that results in a 'win' for the consumer. Any incentive program may be provided, as long as some algorithm for determining a winner is available.") Thus, the "incentive programs" of the system and method of Eggleston are programs that can be "won" by the consumer in order to "win" awards. In contrast, consumers belong to at least some of the incentive programs of claims 1, 16, 22 and 23 *before* using the system and method, because the consumer sends and the system receives information on the consumer's membership in at least some of these incentive programs. There is also no need to "win" a prize or award in the invention of claims 1, 16, 22 and 23.

Additionally, claims 1, 16, 22 and 23 do not include the structural limitations of a sponsor or a retailer, which are also described as "necessary" to the Eggleston system. Col. 10 lines 43-44 ("the particular systems *necessary* for operation of the present invention are depicted [in Fig. 2]".) (emphasis added). Since Eggleston states that its system and method will not operate without these missing components, Eggleston does not disclose the inventions of claims 1, 16, 22 and 23 which do *not* have these limitations.

IV. Claim Rejections Under 35 U.S.C. § 103.

Claims 7, 12 and 13 have been rejected under 35 U.S.C. § 103(a) as allegedly

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unpatentable over Eggleston. *See* Office Action at ¶ 9. Applicant respectfully submits that Eggleston does not disclose each and every limitation of independent claim 1, and therefore does not support a *prima facie* case of obviousness of claims 7, 12 and 13, which depend from claim 1.

CENTRAL FAX CENTER

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CONCLUSION

Applicants respectfully submit that claims 1-23 are in condition for allowance and request allowance of the same.

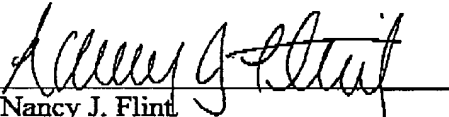
Applicants authorize the Commissioner to charge a fee of \$225.00 for a two month extension of time. If any variance from this amount is determined, the Commissioner is hereby authorized to deduct such fees from or credit any overcharges to the undersigned's Deposit Account No. 50-0206.

Respectfully submitted,

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